

**COMPLAINT INVESTIGATION  
CLARK COUNTY SCHOOL DISTRICT  
(#CL100208)**

**INTRODUCTION**

On 10/2/08, the Nevada Superintendent of Public Instruction received a complaint dated 10/1/08 from parents alleging violations in the special education program of a student with disabilities attending Clark County School District (CCSD). An investigation team was appointed to examine the allegations that the CCSD: 1) held a secret meeting without the IEP team to take the student off the Individualized Educational Program (IEP) and transportation; 2) did not invite the parents to the meeting; 3) did not inform the parents of the intent of the meeting; 4) and did not provide the parents with the results of the meeting; 5) did not provide the report card for the student during the 2008 extended school year (ESY) and 6) refused to grant the parent an IEP meeting.

**COMPLAINT ISSUES**

The allegations articulated in the complaint, and further clarified by a review of the documents and interviews, raised the following issues under the jurisdiction of the Nevada Department of Education (NDE):

- Issue 1: Whether CCSD conducted a meeting without parent participation for the purpose of finding the student ineligible.
- Issue 2: Whether CCSD implemented the student's 6/4/08 IEP with regard to providing the report of the student's progress for 2008 ESY.
- Issue 3: Whether CCSD responded to the parent's August 2008 request for an IEP meeting in accordance with federal and state requirements.

**PERSONS INTERVIEWED**

The investigation team interviewed the following persons:

- Parent
- Parent advocate
- Early childhood special education teacher
- Special education liaison
- Principal of home school
- Principal and assistant principal of the choice schools
- Southwest director of student support services
- Two compliance monitors

**DOCUMENTS REVIEWED**

The documents reviewed by the investigation team included the following:

1. Letter to parent dated 3/26/08 suggesting meeting dates
2. Meeting notices dated 4/3/08, 4/14/08, and 4/15/08
3. 4/23/08 Statement of Eligibility
4. 4/23/08 IEP
5. 6/4/08 IEP
6. 2008 ESY Progress Report

7. ESY Teacher Handbook – section regarding ESY Progress Reports
8. 2008 ESY attendance records for student
9. 9/9/08 Prior Written Notice of District Refusal to conduct an IEP meeting
10. 10/21/08 District letter to parent transmitting copy of 2008 ESY Progress Reports
11. Student's status record 10/16/07-10/7/08
12. 2008/2009 school year calendar
13. District letters to the parent dated 9/3/08 and 9/30/08

The investigation team also reviewed the following material:

- Nevada Administrative Code (NAC), Chapter 388
- Individuals with Disabilities Education Act (IDEA) Regulations, 34 CFR Part 300
- Federal Register / Vol. 64, No. 48 / Friday, March 12, 1999 / Rules and Regulations, Appendix A, Question 20

## **FINDINGS OF FACT**

This investigation involved a student who attended CCSD during the 2007/2008 school year under the category of developmentally delayed and was enrolled in an early childhood special education program. The student turned five prior to the end of the 2007/2008 school year. A review of documents, as well as interviews established the following facts.

On 4/23/08 an eligibility team/IEP committee meeting was held regarding the student. The eligibility team determined that the student continued to be eligible for special education services under the category of developmental delay. Copies of the eligibility statement were provided to the parent subsequent to the meeting.

The IEP completed on 4/23/08 stated that, beginning with the 2008/2009 school year, the student's placement was in a regular education environment 100% of the time. The 4/23/08 IEP included two annual goals. One addressed communication skills in a school setting and the second addressed appropriate communication with peers. The goals were to be implemented by the special education teacher, the general education teacher and the teaching staff. The 4/23/08 IEP included specially designed instruction of 60 minutes a month in behavioral social skills as direct instruction and 20 minutes a month of consultation in behavioral social skills beginning in the 2008/2009 school year. Following the 4/23/08 IEP meeting the district sent the parent a Notice of Intent to Implement the 4/23/08 IEP and a copy of the 4/23/08 IEP.

In May, the parent requested an IEP meeting to consider providing the student with ESY for 2008. A 6/4/08 IEP meeting was held and the IEP committee found that the student required ESY services. ESY services began on 7/1/08 and ended on 7/29/08. The 6/4/08 IEP stated that progress reports would be provided as often as they are provided in kindergarten. There was no requirement in the 6/4/08 IEP with regard to how the report card was to be delivered to the parent. No other changes or revisions were made to the 4/23/08 IEP—all other provisions remained in effect.

The student attended school during 2008 ESY. The district's ESY Teacher's Handbook requires that ESY progress reports be sent home with all students on the last day of ESY. District staff reported that this policy also applied to students of kindergarten age. The student's ESY teacher placed the student's ESY Progress Report in the student's backpack on 7/29/08, the last day of ESY. The district staff was not aware that the 2008 ESY Progress Report had not been received by the parents until this complaint was filed on 10/2/08. A second copy of the 2008 ESY Progress Report was sent by certified mail to the parents on 10/21/08.

The 2008/2009 school year began on 8/25/08. Prior to the beginning of the school year the parent was notified, under the requirements of the Elementary and Secondary Education Act (ESEA), of the option of

placing the student in one of two "Choice" schools or keeping the student in the current home school. Both Choice schools and the home school had regular education kindergarten classrooms and special education resource teachers as required for implementation of the student's 4/23/08 IEP. The parent reported that the two Choice schools and the student's zoned school were not acceptable to her because they "were not conducive" to the student's numerous diagnosed disabilities.

Sometime during the week of 8/17/08 through 8/22/08, the parent made contact with the district regarding the "Choice" school options under the ESEA and attempted to enroll the student in a self-contained special education classroom at a school that was not the student's home school nor one of the two Choice school options. The parent reported to the complaint investigation team that she was told by a staff member at the "non-Choice" school that the student could not be enrolled in the self-contained special education classroom because the student "was not special education but all general education."

District staff reported that the staff member from the non-Choice school who spoke with the parent told the parent that the student's IEP required implementation in a regular education classroom, not a self-contained special education classroom and therefore refused to enroll the student at that school. The parent was referred again to the two Choice schools or the student's home school.

On 8/25/08 the parent spoke with the special education liaison at the student's home school and requested an IEP meeting. The district sent the parent a 9/9/08 "Parental Prior Notice of District Refusal" to conduct the requested IEP meeting. The Parental Prior Notice of District Refusal specified the requested action it was refusing, the reasons why the district refused to take the requested action, what other options were considered, and what other options the district rejected. The Parental Prior Notice of District Refusal also listed the evaluation procedures, assessments, records, or reports that the district used as a basis for its refused actions, and additional factors the district considered relevant to its refused actions. A copy of the Explanation of Procedural Safeguards (statement of parental rights) was attached to the Parental Prior Written Notice, advising the parents of their right to seek resolution of disagreements by initiating a due process hearing and/or formal mediation. The Parental Prior Notice of District Refusal also provided a name and telephone number for the parent to contact if the parent had any questions regarding special education rights.

On 9/3/08 the principal of the home school called the parent to encourage the parent to send the student to school, telling the parent that it was important for the student to attend school. The principal offered to arrange a parent/teacher meeting with the student's kindergarten teachers. On 9/9/08 the principal sent the parent a letter, by regular and by certified mail, stating that it was important for the student to attend school on a regular basis.

On 9/30/08 the Southwest Director of Student Support Services sent a letter, by regular and by certified mail, to the parent confirming the option of the parent to enroll the student at the home school or one of the two Choice schools. The 9/30/08 letter confirmed that the student's IEP could be implemented at any of the three schools.

The student had not attended school during the 2008/2009 school year up through the date of this complaint investigation report. The parent reported to the complaint investigation team that they were reluctant to place the student in school because they believed that the district had taken away the student's eligibility for special education status and all special education services, via a meeting that did not include the parent. The parent further indicated that they believed this based upon their conversation with school staff at the non-Choice school regarding enrolling the student in the self-contained program located at that school.

## **CONCLUSIONS OF LAW AND REASONS**

Issue 1: Whether CCSD conducted a meeting without parent participation for the purpose of finding the student ineligible.

This complaint concerned allegations that the district held a secret meeting and took the student off the IEP, did not invite the parents to the meeting, did not inform the parents of the intent of the meeting and did not provide the parents with the results of the meeting.

Federal regulations at 34 CFR §300.501(b)(1)(2) require that “parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to– (i) The identification, evaluation, and educational placement of the child; and (ii) The provision of FAPE to the child.” Further, 34 CFR §300.322 requires districts “to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.”

In this case, the investigation team found that the district neither convened an eligibility meeting without the parent nor changed the student’s status as eligible to receive services. There was no secret meeting to discontinue the student’s special education eligibility. Confusion may have been created for the parent about the student’s eligibility when the parent attempted to enroll the student in August in a placement that did not align to the placement specified in the student’s IEP. Clearly, the evidence established that the student was eligible for special education under the category of developmentally delayed, remained eligible for special education, and continued to have services available. The district acknowledged the student’s continued eligibility to the parent and acted appropriately by providing locations in August 2008, under the requirements of the ESEA, where the placement identified in the 4/23/08 IEP could be implemented during the upcoming 2008/2009 school year. Further, when the parent elected to keep the student at home, the district made reasonable attempts to convince the parent to bring the student to school.

*Therefore, the investigation team concluded that the CCSD did not conduct a meeting without parent participation for the purpose of finding the student ineligible.*

Issue 2: Whether CCSD implemented the student’s 6/4/08 IEP with regard to providing the report of the student’s progress for 2008 ESY.

This complaint concerned an allegation that the district did not provide a copy of the student’s report card for ESY 2008.

State regulations at NAC §388.281(6)(g) require that the school district shall “Provide the services and instruction deemed necessary for the pupil by the [IEP] committee...”.

In this case the 6/4/08 IEP required that the student receive a report card as often as kindergarten children receive report cards and did not include a requirement describing how the report card would be delivered to the parent. All children attending ESY in the district, including children in kindergarten, were given their progress report to take home on the last day of ESY. The student’s 2008 ESY progress report was placed in his backpack to take home. The parent did not notify the district that she had not received the 2008 ESY progress report until 10/2/08. Another copy of the 2008 ESY progress report was mailed to her on 10/21/08.

The student’s IEP obligated the CCSD to provide the 2008 ESY program report as frequently as it did to kindergarten students and this obligation was met when it sent the progress report home with the student on the last day of 2008 ESY.

*Therefore, the investigation team concluded that the CCSD complied with state regulations to implement the student’s 6/4/08 IEP with regard to providing the report of the student’s progress for 2008 ESY.*

Issue 3: Whether CCSD responded to the parent's August request for an IEP meeting in accordance with federal and state requirements.

This complaint concerned an allegation that the district refused to grant the parent an IEP meeting.

Appendix A to the IDEA 1999 Regulations, Question 20 clarifies that a school district must provide parents with written notice of its refusal to convene an IEP meeting requested by the parents: "... If a parent requests an IEP meeting because the parent believes that a change is needed in the provision of FAPE to the child or the educational placement of the child, and the agency refuses to convene an IEP meeting to determine whether such a change is needed, the agency must provide written notice to the parents of the refusal, including an explanation of why the agency has determined that conducting the meeting is not necessary to ensure the provision of FAPE to the student."

State regulations at NAC §388.300(7) require that the notice include:

- (a) A description of the action proposed or refused by the public agency;
- (b) The reasons for the proposal or refusal;
- (c) A description of other options the public agency considered and the reasons why those options were rejected;
- (d) A description of each evaluation procedure, assessment, record or report upon which the action is based;
- (e) A description of the factors which are relevant to the public agency's proposal or refusal;
- (f) A statement that the parents have rights in the matter, and if the notice is not notice of an initial referral for evaluation, the means by which a statement of parental rights can be obtained; and
- (g) Sources for parents to contact to obtain assistance in understanding the provisions of state and federal law relating to special education.

In this case, the district was obligated to provide written notice to the parents of its refusal to conduct an IEP meeting as requested by the parent, including an explanation for its action. The district met its obligation to provide the written notice to the parent of its refusal to conduct an IEP meeting. The Parental Prior Notice of District Refusal dated 9/9/08 contained all content required under state regulations, including the reasons why the district determined that conducting an IEP meeting was not necessary, and the evaluation procedures, assessments, records, or reports utilized by the district as a basis for its refusal. The notice was accompanied by a statement of parental rights, and the name and telephone number of a person whom the parents could contact for assistance in understanding the provisions of state and federal law relating to special education.

*Therefore, the investigation team concluded that CCSD complied with federal and state regulations regarding provision of written notice of its refusal to the parent in response to the parent's request for an August 2008 IEP meeting.*